

REMARKS

In a final Office Action mailed June 21, 2010, claims 1-8, 10-20, 21-25, 27, 29, and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0220835 by Barnes, Jr. (hereinafter "Barnes") in view of U.S. Patent No. 6,833,865 by Fuller et al. (hereinafter "Fuller"); claim 13 was rejected under 35 U.S.C. § 112, second paragraph as being unclear; and claim 29 was rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses and requests reconsideration.

Status of the Claims

By way of amendments above, claim 5 has been canceled and the dependency of claim 6 has been revised in light thereof. Claims 8 and 13 have been amended to correct antecedent basis errors. Claim 29 has been amended in accordance with a suggestion by the Office. After the amendments above, claims 1-4, 6-8, 10-25, 27, 29, and 32 are currently pending, claims 5, 9, 26, 28, 30 and 31 have been canceled and no claims have been withdrawn. Of the currently pending claims, claims 1, 8, 13, 19, 25, 27 and 29 are independent.

For the reasons set forth below, Applicant respectfully submits that the instant claims are in suitable condition for allowance.

Examiner Interview

Applicant thanks Examiner Nguyen for the courtesies extended to Applicant's representatives during the interview of October 13, 2010. During the interview, the parties discussed amendments to claims 13 and 29 to address the rejections thereof. Additionally, the parties discussed the distinction between "automatically receiving, by the media recording device . . . from the media indexing beacon, index information descriptive of the subject," as presently claimed, and the teachings of the Barnes and Fuller references. Based on this discussion,

Examiner Nguyen agreed that further search may be merited to verify that these features are not found in the prior art. Applicant believes this response accurately reflects the amendments and points discussed during the interview with the goal of advancing prosecution of this matter to a timely and favorable conclusion.

Rejection Under § 112, Second Paragraph

Claim 13 stands rejected under 35 U.S.C. § 112, second paragraph as being unclear, specifically, with regard to the antecedent basis for the limitation “the media capture device.” By way of amendment above, this limitation has been corrected to read “the media recording device.” As such, Applicant respectfully submits that claim 13 is clear on its face and is therefore in suitable condition for allowance.

Rejection Under § 101

Claim 29 stands rejected under 35 U.S.C. § 101 as being directed to non-patentable subject matter. Specifically, the Office has requested that the claimed “computer readable medium” be clarified to encompass only “non-transitory” computer readable media. This phrase has been amended above to read “a non-transitory, computer readable medium.” As such, Applicant respectfully submits that claim 29 encompasses only patentable subject matter and is therefore in suitable condition for allowance.

Rejections Under § 103

Claims 1-8, 10-20, 21-25, 27, 29, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Barnes in view of Fuller. Prior to discussing the merits of these rejections, Applicant believes a brief discussion of the respective teachings of Barnes and Fuller may prove beneficial.

Barnes teaches a “multi-function communications device 101 that includes conventional mobile phone and personal digital assistant (PDA) capabilities” (¶ 0033; FIG. 1) and that is

capable of wireless communications via a number of different channel types, including "a conventional mobile telephone network or wireless wide area network (WWAN), and one or more other wireless local area networks (wireless LAN or WLAN), wireless Metropolitan Area Network (MAN), and a wireless personal area networks (PAN) (e.g., Bluetooth network)." (§ 0043) Among the myriad of other functions attributed thereto, Barnes discloses that the communications device 101 may receive something akin to a "beacon" signal in that "the nearby device (e.g., a billboard with a wireless transceiver therein) may transmit information to the device [101] to indicate that that the device [101] is at, or within, a predetermined distance of a particular point of interest (e.g., a vender)." (§ 0100) Separately, Barnes further teaches that the communications device 101 comprises a recorder module 115 that may be used to capture audio and video data (§ 0116) and an image module 122 that may be used to record image data (§ 0122). Barnes further teaches that the recorder module 115 may be used to obtain voice data that can subsequently be used to annotate a variety of computer data, including data files such as digital photographs or video. (§§ 0118, 0120, 0126) It is noted, however, that Barnes is completely silent with regard to even the possibility of using any data or information *received from a "beacon" or any other remote device* for the purpose of "annotating" (or, in the parlance of the instant application, indexing) a data file.

Fuller teaches a "digital capture system" (abstract) capable of automatically generating metadata based on analysis of multimedia content that may be used to index the multimedia content. (See, e.g., col. 2, lines 53-62: "The present invention is based on technologies relating to the automatic extraction of metadata descriptions of digital multimedia content such as still images and video. The present invention also incorporates audio analysis engines that are available from third parties within an extensible metadata "engine" framework. These engines

perform sophisticated *analysis of multimedia content and generate metadata descriptions* that can be effectively used to index the content for downstream applications such as search and browse.”; col. 8, lines 44-47: “At the beginning of the loop, the first check is to see if the device is in a record function at state 804. If it is recording, then the flow of control passes to 806 for the *content-based signal analysis* to take place.” (emphases added)) Additionally, non-content based “collateral data” may be input to/received by the digital capture system, which data may also be used for indexing purposes. (See, e.g., col. 4, lines 12-16: “In addition . . . other collateral data may be associated with the clip and become part of the metadata. Often this metadata is already available to the camera electronics, or can be entered by the camera operator.”; FIG. 1, element 400 “Collateral Data Input”; col. 5, lines 49-57: “Various forms of collateral metadata (metadata that is not based on the content) can be gathered at block 400, including user-provided information (e.g., labels, selections, and annotations) at block 401, device state information (e.g., lens properties, exposure values, f-stops, audio gains, time/date, and so forth) at block 402, and external sensor information (e.g., position derived from GPS satellites, light meter readings, scientific sensor input, and so forth) at block 403.”) In short, any metadata that is descriptive of Fuller’s multimedia content is derived from the multimedia content itself, whereas any input/received metadata is not descriptive of the multimedia content itself.

Turning now to the rejection of claims 1 and 27, it is first noted that claim 1 (being representative of claim 27) recites “receiving, by the media recording device . . . from the media indexing beacon, indexing information descriptive of the subject” recorded in a media file. It is further noted that the media indexing beacon is recited in the claim as being “external relative to the media recording device.” In light of this limitation and the discussion above concerning the

Barnes and Fuller references, Applicant respectfully submits that the combination of Barnes in view of Fuller fails to establish prima facie obviousness of claim 1.

Specifically, neither Barnes nor Fuller teaches receiving indexing information from an external beacon, which indexing information is descriptive of the subject recorded in the media file being indexed by the indexing information. As noted above, while Barnes does disclose receiving information from various types of "beacons", *none of that information is descriptive of the subject recorded in a media file and, more importantly, none is used to index a media file* (or any other kind of file); any indexing information descriptive of a subject taught by Barnes is input by a user of the communication device. Likewise, Fuller teaches deriving indexing information that is possibly descriptive of a subject in a media file¹ *directly from the media file*, not receiving such descriptive information from an external media indexing beacon as presently claimed. Furthermore, a person of skill in the art would not be motivated to employ Barne's external "beacons" as a source of indexing information given that Barne's "primary objective" is "providing location services and e-commerce" (§ 0008). Similarly, a person of skill in the art would not seek to undo Fuller's "desired . . . capability to embed a *content-based analysis function* in the capture device for extracting metadata from the digital signals" (col. 2, lines 6-8; emphasis) by instead employing subject-descriptive indexing information received from an external beacon device.

Given this failure of the Barnes and Fuller references, either alone or in combination, to teach or even suggest these limitations, Applicant respectfully submits that prima facie

¹ Applicants dispute that the content-based metadata based on analysis thereof is "descriptive" of the subject of a media file. For the purposes of argument only, however, it is assumed that Fuller's content-based metadata is descriptive of the subject but that the other limitations of claim 1 are not met even with this assumption.

obviousness has not been shown and that claims 1 and 27 are therefore in suitable condition for allowance. To the extent that the other independent claims 8, 13, 19, 25 and 29 also include limitations substantially similar to those discussed above, Applicant respectfully submits that claims 8, 13, 19, 25 and 29 are also in suitable condition for allowance for the reasons described above.

With regard to claims 2-4, 6, 7, 10-12, 14-18, 20-24 and 32, Applicant notes that these claims are dependent upon respective ones of independent claims 1, 8, 13, 19, 25, 27 and 29. Because claims 2-4, 6, 7, 10-12, 14-18, 20-24 and 32 incorporate the limitations of claims 1, 8, 13, 19, 25, 27 and 29, Applicant respectfully submits that the combination of Barnes in view of Fuller does not render obvious these dependent claims for at least the reasons presented above with regard to the independent claims. Therefore, Applicant respectfully submits that claims 2-4, 6, 7, 10-12, 14-18, 20-24 and 32 are in suitable condition for allowance. Furthermore, the various dependent claims also recite limitations not taught by Barnes or Fuller.

For example, claims 6 recites that the index information is received in response to an index information request. Paragraph 0066, lines 8+ of Barnes are cited as teaching this limitation. While the cited portion of Barnes does indeed recite "a request by the user," further inspection reveals that the request noted in Barnes refers to obtaining transmissions of "live" audio/visual broadcasts (or previously recorded live audio/visual productions). Of course, such requests for broadcast data is wholly unrelated to a request for index information. As such, Applicant respectfully submits that claim 6 is additionally distinguished over the cited art. To the extent that claims 14 and 22 also recites a similar limitation, Applicant respectfully submits that claims 14 and 22 are also additionally distinguishable.

As a further example, claim 21 recites that the media indexing beacon comprises at least one index buffer comprising the index information. The "frame buffer 205" shown in Fuller's FIG. 4 has been cited as teaching this limitation. Despite the fact that Fuller's frame buffer 205 does include the word "buffer" in it, it has nothing to do with storing index information, as claimed. Instead, as Fuller makes clear (see, e.g., col. 7, lines 30-50), the "frame buffer 205" is used to store video frames as is conventional in the art; Fuller's frame buffer is not used to store index information. As such, Applicant respectfully submits that claim 21 is additionally distinguished over the cited art.

CONCLUSION

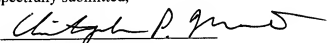
It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request reconsideration and withdrawal of all presently outstanding rejections. Thus, prompt and favorable consideration of this response is respectfully requested. If it is believed that personal communication will expedite prosecution of this application, Applicants' undersigned representative may be contacted at the number below.

Date: 14 October 2010

Vedder Price P.C.
222 N. LaSalle Street
Chicago, Illinois 60601
Phone: (312) 609-7842
Fax: (312) 609-5005

Respectfully submitted,

By:


Christopher P. Moreno
Registration No. 38,566